

AMENDED IN ASSEMBLY JUNE 2, 2003
AMENDED IN ASSEMBLY APRIL 22, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 906

Introduced by Assembly Members Nakano, Laird, and Simitian

February 20, 2003

An act to add Division 39 (commencing with Section 72500) to the Public Resources Code, relating to vessels.

LEGISLATIVE COUNSEL'S DIGEST

AB 906, as amended, Nakano. Large passenger vessels: water quality.

Under the Porter-Cologne Water Quality Control Act, the State Water Resources Control Board (*board*) is the principal state agency with primary authority over water quality matters. Under the act, the board prescribes waste discharge requirements for the discharge of waste into the waters of the state.

~~Existing law, which by its own terms will be repealed on July 1, 2003, requires an owner or operator of a large passenger vessel operated in the marine waters of the state to submit a report to the State Water Resources Control Board of the release of graywater or sewage that occurred during a specified time in the marine waters of the state.~~

Federal law establishes a system of national marine sanctuaries.

This bill would declare that it is in the public interest to prohibit large passenger vessels from releasing waste into national marine sanctuaries in the marine waters of the state.

~~The bill would require the owner or operator of a large passenger vessel, as defined, to submit reports to the State Water Resources Control Board concerning the release of waste, as defined, into the marine waters of the state and national marine sanctuaries in the marine waters of the state, quarterly, and to immediately notify the Department of Fish and Game and the board of specified releases. The bill would require the owner or operator of the vessel to sign specified reports under penalty of perjury, thereby imposing a state-mandated local program, by expanding the scope of a crime.~~

The bill would prohibit the release of graywater and hazardous waste, by large passenger vessels into the marine waters of the state or national marine sanctuaries in the marine waters of the state, and would subject a person who violates the prohibitions to a civil penalty, as specified. *The bill would require the board to request the appropriate federal agencies to prohibit the release of graywater and hazardous waste by large passenger vessels in all of the waters in the Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, and Monterey Bay National Marine Sanctuary; and to request, if necessary, approval of the state's prohibition of the release of graywater and hazardous waste in the national marine sanctuaries in the marine waters of the state.*

The bill would permit the board to adopt regulations, and to board and inspect a vessel in the marine waters of the state, to carry out the bill's provisions. The bill would provide that it does not apply to vessels that operate in the marine waters of the state solely in innocent passage.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: *yes no*.

The people of the State of California do enact as follows:

- 1 SECTION 1. Division 39 (commencing with Section 72500)
- 2 is added to the Public Resources Code, to read:
- 3

DIVISION 39. PROHIBITED RELEASE OF WASTES
FROM LARGE PASSENGER VESSELS

CHAPTER 1. FINDINGS AND DECLARATIONS

72500. The Legislature finds and declares all of the following:

(a) Large passenger vessels produce considerable amounts of waste, including graywater, sewage, and other forms of solid and liquid waste.

(b) California is home to four of the 13 National Marine Sanctuaries. These areas support some of the world's most diverse marine ecosystems and are home to numerous mammals, seabirds, fish, invertebrates, and plants.

(c) The release of waste from large passenger vessels results in substantial damage to these valuable resources.

(d) In order to protect public health and the environment, it is in the public interest to prohibit large passenger vessels from releasing waste into marine sanctuaries.

CHAPTER 2. DEFINITIONS

72505. Unless the context otherwise requires, the following definitions govern ~~the construction of~~ this division:

(a) "Board" means the State Water Resources Control Board.

(b) "Graywater" means drainage from dishwasher, shower, laundry, bath, and wash basin drains, but does not include drainage from toilets, urinals, hospitals, and cargo spaces.

(c) "Hazardous waste" has the meaning set forth in Section 25117 of the Health and Safety Code. Hazardous waste also includes photography lab chemicals, dry cleaning chemicals, and medical waste, but does not include sewage.

(d) "Large passenger vessel" or "vessel" means a vessel of 300 gross registered tons or greater that is engaged in the carrying of passengers for hire, excluding all of the following vessels:

(1) Vessels without berths or overnight accommodations for passengers.

(2) Noncommercial vessels, warships, vessels operated by nonprofit entities as determined by the Internal Revenue Service,

1 and vessels operated by the state, the United States, or a foreign
2 government.

3 (e) “Marine waters of the state” means “coastal waters” as
4 defined in Section 13181 of the Water Code.

5 (f) “Marine sanctuary” means marine waters of the state in the
6 Channel Islands National Marine Sanctuary, Cordell Bank
7 National Marine Sanctuary, Gulf of the Farallones National
8 Marine Sanctuary, or Monterey Bay National Marine Sanctuary.

9 (g) “Medical waste” means medical waste subject to
10 regulation pursuant to Part 14 (commencing with Section 117600)
11 of Division 104 of the Health and Safety Code.

12 ~~(h) “Offloading” means the removal of waste material onto or~~
13 ~~into a controlled storage, processing, or disposal facility or~~
14 ~~treatment works.~~

15 ~~(i)–~~

16 (h) “Operator” has the meaning set forth in Section 651 of the
17 Harbors and Navigation Code.

18 ~~(j)–~~

19 (i) “Owner” has the meaning set forth in Section 651 of the
20 Harbors and Navigation Code.

21 ~~(k)–~~

22 (j) “Release” means discharging or disposing of wastes into
23 the environment.

24 ~~(l)–~~

25 (k) “Waste” means graywater or hazardous waste.

27 CHAPTER 3.—REPORTS

28
29 ~~72510.—(a) If a large passenger vessel releases waste in a~~
30 ~~marine sanctuary, the owner or operator shall immediately notify~~
31 ~~the Department of Fish and Game and the board of the release. The~~
32 ~~owner or operator shall include the information listed in~~
33 ~~subparagraphs (A) to (E), inclusive, of paragraph (1) of~~
34 ~~subdivision (b) in that notification.~~

35 (b) (1) The owner or operator of a large passenger vessel shall
36 maintain reports of each release of waste within a marine sanctuary
37 for three years, including a description of each of the following:

38 (A) Type of waste was released.

39 (B) Quantity of waste released.

40 (C) When the waste was released.

1 ~~(D) Where the waste was released.~~

2 ~~(E) Any attempt to mitigate the impacts of the release.~~

3 ~~(2) The owner or operator shall sign the reports under penalty~~
4 ~~of perjury.~~

5 ~~(3) The owner or operator shall submit the reports to the board~~
6 ~~quarterly.~~

7 ~~72512. (a) The owner or operator of a large passenger vessel~~
8 ~~shall maintain reports of each offloading or release of waste within~~
9 ~~the marine waters of the state, and include in the reports~~
10 ~~information described in subparagraphs (A) to (E), inclusive, of~~
11 ~~paragraph (1) of subdivision (b) of Section 72510.~~

12 ~~(b) The owner or operator shall submit the reports to the board~~
13 ~~quarterly.~~

14
15 CHAPTER 4. 3. PROHIBITED RELEASES

16
17 72515. (a) The Legislature finds and declares that the
18 protection and enhancement of the quality of the marine waters of
19 the state requires that the release of graywater from large passenger
20 vessels into the marine waters of the state should be prohibited.

21 (b) An owner or operator of a large passenger vessel may not
22 release, or permit anyone to release, graywater from the vessel into
23 the marine waters of the state.

24 72519. (a) The Legislature finds and declares that the
25 protection and enhancement of the quality of the marine waters of
26 the state requires that the release of hazardous waste from large
27 passenger vessels into the marine waters of the state should be
28 prohibited.

29 (b) An owner or operator of a large passenger vessel may not
30 release, or permit anyone to release, a hazardous waste from the
31 vessel into the marine waters of the state.

32 72521. (a) The Legislature finds and declares that the
33 protection and enhancement of the quality of marine sanctuaries
34 requires that the release of hazardous waste from large passenger
35 vessels into marine sanctuaries should be prohibited.

36 (b) An owner or operator of a large passenger vessel may not
37 release, or permit anyone to release, a hazardous waste from the
38 vessel into a marine sanctuary.

39 72523. (a) The Legislature finds and declares that the
40 protection and enhancement of the quality of marine sanctuaries

1 requires that the release of graywater from large passenger vessels
2 into marine sanctuaries should be prohibited.

3 (b) An owner or operator of a large passenger vessel may not
4 release, or permit anyone to release, graywater from the vessel into
5 a marine sanctuary.

6
7 CHAPTER ~~5~~. 4. PENALTIES
8

9 72530. (a) A person who violates Section 72515, 72519,
10 72521, or 72523, shall be subject to a civil penalty of not more than
11 twenty-five thousand dollars (\$25,000) for each violation.

12 (b) The civil penalty imposed for each separate violation
13 pursuant to this section is separate from, and in addition to, any
14 other civil penalty imposed for a separate violation pursuant to this
15 section or any other provision of law.

16 (c) In determining the amount of a civil penalty imposed
17 pursuant to this section, the court shall take into consideration all
18 relevant circumstances, including, but not limited to, the nature,
19 circumstance, extent, and gravity of the violation. In making this
20 determination, the court shall consider the degree of toxicity and
21 volume of the release, the extent of harm caused by the violation,
22 whether the effects of the violation may be reversed or mitigated,
23 and with respect to the defendant, the ability to pay, the effect of
24 a civil penalty on the ability to continue in business, all voluntary
25 cleanup efforts undertaken, the prior history of violations, the
26 gravity of the behavior, the economic benefit, if any, resulting
27 from the violation, and all other matters the court determines
28 justice may require.

29 (d) A civil action brought under this section may only be
30 brought by the Attorney General upon complaint by the
31 Department of Fish and Game or the appropriate California
32 regional water quality control board, or by the district attorney or
33 city attorney. If a district attorney or city attorney brings an action
34 under this section, the action shall be in the name of the people of
35 the State of California. An action relating to the same violation
36 may be joined or consolidated.
37

CHAPTER 7. 5. MISCELLANEOUS

72540. (a) This division does not apply to a large passenger vessel that operates in the marine waters of the state solely in innocent passage.

(b) For purposes of this section, a vessel is engaged in innocent passage if its operation in state waters would constitute innocent passage under either the Convention ~~or~~ on the Territorial Sea and Contiguous Zone, dated April 29, 1958, or the United Nations Convention on the Law of the Sea, dated December 10, 1982.

72542. The board may adopt regulations to carry out this division.

72544. The board may board and inspect a vessel in the marine waters of the state for the purposes of carrying out this division.

~~SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.~~

72545. *The board shall request the appropriate federal agencies, as determined by the board, to prohibit the release of waste by large passenger vessels in all of the waters in the Channel Islands National Marine Sanctuary, Cordell Bank National Marine Sanctuary, Gulf of the Farallones National Marine Sanctuary, and Monterey Bay National Marine Sanctuary; and, request, if necessary, approval of the state's prohibition of the release of waste in the marine sanctuaries.*